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10/826,195	04/15/2004	Anthony Angelino	CUPID 3.0-003	9785
530	7590	04/07/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			IZAGUIRRE, ISMAEL	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/826,195

Applicant(s)

ANGELINO ET AL.

Examiner

Ismael Izaguirre

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-37 and 39-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39, 40 and 49-52 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-12, 14, 21-23, 27-29, 33, 35-37, 41-48, 53 and 54 is/are rejected.
- 7) ☒ Claim(s) 6, 13, 15-20, 24-26, 30-32 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The examiner is appreciative of the changes made to the language of the claims. These have been duly noted and considered.

### **CLAIMS**

#### **Summary**

Claims 1,5,21,28,33,35,39,41,46,49 and 53 are the independent claims under consideration in this Office action.

Claims 2-4,6-20,22-27,29-32,34,36,37,40,42-45,47,48,50-52 and 54 are the dependent claims under consideration in this Office action.

Concerning the language of the claims, the following is submitted for applicant's consideration:

#### **Claim Rejections - 35 U.S.C. § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim line 2, the words "the disposing a curable" are unclear. There seems to be missing text here.

Further, this claim defines cutting before disposing the polymer. This is already defined in claim 1. It is unclear what is intended here.

- Concerning the patentability of the claims, the following newly found prior art is submitted for applicant's consideration:

**Claim Rejections - 35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5,7-9,11,14,21,23,27,33,35-37,41-48,53 and 54 are rejected under 35 U.S.C. § 102(b) as being anticipated by Grim et al. (6,482,167).

Grim et al. teach a method of making a fabric having a finished edge. Grim et al. teach the fabric material comprising either a single layer or plurality of layers comprising natural or synthetic fibers (column 1, lines 58-62) where a knitted component (which is a material being inherently stretchable) and a padding which is absorbable is applied to the fabric as layering. The fabric material is usable as a garment and more specifically as an undergarment where a casting is produced and where a user would slide a shirtsleeve or sling or other garment over the casting so as to camouflage the casting at a public function. The casting may be considered an undergarment when a hip area injury is present and the user must wear a garment over the casting.

The fabric material comprises a material, which is cut as a first step (column 2, line 20-24 or column 5, lines 49-51) yielding a plurality of free fiber ends, which can be uncomfortable to a person wearing the cast. Those free ends are then contacted with a

bead (column 4, line 16) of silicone (column 4, line 11) provided by a dispenser, which would hold the silicone, aligned with a channel in the mold 32, 34 usable for shaping the casting and dispensing the silicone at and or over the cut edges of the fabric material (figure 8 or 10, for example). Grim et al. teach that the reason for placing the beading is for avoiding the exposed fraying of the material (column 2, lines 29-31).

After the silicone is placed on the edging it is cured (meaning; heated) and provides the casting with a comfortable edging. Grim et al. teach the method usable for providing the beading at the edge and when processed, cured or compressed in the mold will provide a finished edge with no elastic, trim lace or folded over edge. Grim et al. teach providing a second beading of silicone spaced from the first at an interior portion to the first (figure 9) where this second beading is adjacent the first and comprises a curved path as desired. The second beading of silicone 68 is provided around and over the edging of the casting which locates the silicone on an interior edge portion and further around a hole where a thumb is insertable and accordingly, allows the silicone bead to provide a gripping characteristic for holding the cut pattern piece in place on a wear's body.

### **Claim Rejections - 35 U.S.C. § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

Claims 5,7-12,14,28 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson (5,531,176) in view of Grim et al.

Johnson discloses the invention substantially as claimed. Johnson teaches a method of making a fabric having a finished edge. Johnson teaches the fabric material as usable for forming an appliqué, which can be usable for placement on a garment, and teaches the material as having cut edges with fibers at the cut edges. The material is placeable over a sheet of paper material, which has absorbent characteristics and is provided with a curable polymer (rubber cement) adjacent the edge of the paper and upon the edge of the fabric cut edge. The paper is adhered to the fabric and the fabric is cut at the polymer for curing and folding over for providing a seam allowance. The polymer is provided by aligning a dispenser having an opening for allowing the polymer to flow onto the fabric as desired (figure 4). Thereafter, an iron is used on the folded over portion and a stitching is provided on the seam allowance. However, Johnson does not suggest the polymer as comprising silicone.

Grim et al. teach a garment comprising a material, which is cut as a first step yielding a plurality of free fiber ends, which can be uncomfortable to a person wearing the cast. Those free ends are then contacted with a bead of silicone (column 4, line 11) provided by a dispenser on and over the cut edges of the material contacting the free ends of the fibers.

Accordingly, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to construct the beading of Johnson as

comprising silicone. Providing such would allow the edges to remain malleable yet enclose the free or frayed ends of the fibers. This would have provided for a more flexible and comfortable final product when placed against a person's skin as in a cast or as in an appliqué on say a comforter.

Claims 1-5,11,14,33,46,47 and 53 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Noda et al. (4,596,616).

Noda et al. disclose the invention substantially as claimed. Noda et al. teach a method of making a garment with a fabric having a finished edge and further teach a cut pattern piece with a cut edge having a heatable silicone bead placed at the periphery of the cut edge (column 1, lines 53-54). Noda et al. teach cut pattern pieces of fabric 2,4,and 6 where one piece is laid over the other and a bead is placed at the edge of a piece (figure 3, for example) for holding them together and then the fabric is sewn to the other (column 5, line 11). The material comprises one or several layers and where one layer is placeable over a sheet of padding which has absorbent characteristics and is provided with a curable silicone at a periphery of the fabric cut pattern. However, Noda et al. do not specifically define the cut edges as including fibrous edges with free end fibers, which would fray.

It would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to construct and define the peripheral beading of Noda et al. as comprising silicone placed onto fibers having free ends at the cut edges. Placing the silicone at the cut edge with free end fibers would allow the smoother laying of the fabric

on top of another and thus produce a more accurate sewing pattern without faulty lines and seams.

Claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Grim et al. in view of Henricksen (6,332,825).

Grim et al. disclose the invention substantially as claimed. Grim et al. teach a garment comprising a material, which is cut as a first step yielding a plurality of free fiber ends. Those free ends are then contacted with a plurality of lines (figure 9) of beads of silicone (column 4, line 11) provided by a dispenser on and over the cut edges of the material contacting the free ends of the fibers. However, Grim et al. do not suggest one line of silicone being narrower than the other.

Henricksen teaches a garment including silicone (column 2, line 13) being used as a means for holding the garment in place. The silicone is provided in the form of lines 15 where some of the lines are clearly narrower than others, for example the ones at the straps as opposed to the ones engaging the back 12 (figure 1).

It would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to construct and define the beading of Noda et al. as comprising silicone placed at the cut edge of fabric material in multiple beads where at least one bead is narrower than the other. Providing such a structure would reduce the amount of uncomfortableness to the user by having a narrower silicone line, say at the thumb, and a wider one, say at the forearm.



### **ALLOWABLE SUBJECT MATTER**

Claims 39,40 and 49-52 are allowable over the prior art of record.

Claims 6,13,15-20,24-26,30-32 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **PERTINENT CITATIONS**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Crane et al. illustrate a cutting and placing of a bead of adhesive along an edge of the cut portion and then sewing the folded over portion. Vogt illustrates a hosiery article with lines and patterns of Latex for holding the hosiery on a user's leg. Arabeyre et al. illustrate hosiery including silicone lines thereon for holding the hosiery on a user's leg. Sukanuma et al. illustrate a method for joining fabrics using silicone. Fowler illustrates a garment including adhesive on cut edge portions for avoiding fraying of the edges. Miller and Bystron et al. illustrate plural cut pieces from spreads of fabric where Miller further illustrates the use of a thermoplastic resin on the fabric. Lauber et al. illustrate casting comprising sewn parts.

### **INQUIRIES**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Izaguirre whose telephone number is (571) 272-4987. The examiner can normally be reached on M-F (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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